

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

J.W., a minor, by and through AMANDA
WILLIAMS, Guardian and Next Friend,

Case No.: 3:21-cv-00663-CWR-LGI

Plaintiff,

Hon. Carlton W. Reeves
Mag. LaKeysha Greer Isaac

v.

THE CITY OF JACKSON, MISSISSIPPI;
CHOKWE A. LUMUMBA, JR.; TONY YARBER;
KISHIA POWELL; ROBERT MILLER; JARRIOT
SMASH; THE MISSISSIPPI DEPARTMENT OF
HEALTH; JIM CRAIG; TRILOGY ENGINEERING
SERVICES, LLC; AND John Does 1-40

Defendants.

**DEFENDANT, TRILOGY ENGINEERING SERVICES, LLC’S ANSWER AND
AFFIRMATIVE DEFENSES TO PLAINTIFF’S AMENDED COMPLAINT AND JURY
TRIAL DEMAND**

Defendant, Trilogy Engineering Services, LLC (“Trilogy”), by and through undersigned counsel, hereby files its answer and affirmative defenses to Plaintiff’s Amended Complaint and Jury Trial Demand (the “Amended Complaint”) as follows:

Trilogy denies the allegations in the unnumbered, second paragraph of the Second Amended Complaint.

INTRODUCTION

1. Plaintiffs initiated the civil action, otherwise denied.
2. Denied.
3. Without sufficient knowledge or information, and therefore denied.
4. Without sufficient knowledge or information, and therefore denied.

5. Without sufficient knowledge or information, and therefore denied.
6. Without sufficient knowledge or information, and therefore denied.
7. Without sufficient knowledge or information, and therefore denied.
8. Without sufficient knowledge or information, and therefore denied.
9. Without sufficient knowledge or information, and therefore denied.
10. Denied.
11. Without sufficient knowledge or information, and therefore denied.
12. Denied.
13. Without sufficient knowledge or information, and therefore denied.
14. Without sufficient knowledge or information, and therefore denied.
15. Without sufficient knowledge or information, and therefore denied.
16. Without sufficient knowledge or information, and therefore denied.
17. Denied.
18. Without sufficient knowledge or information, and therefore denied.
19. Denied.
20. The City Council approved a contract for Trilogy to perform a water treatment system corrosion control study and perform engineering services. Otherwise, denied.
21. Trilogy's motion to strike Paragraph 21 from Plaintiffs' Second Amended Complaint is filed in conjunction with this Answer and Affirmative Defenses and is pending with the Court. Nonetheless, to the extent a response is required, denied.
22. Trilogy's motion to strike Paragraph 22 from Plaintiffs' Second Amended Complaint is filed in conjunction with this Answer and Affirmative Defenses and is pending with the Court. Nonetheless, to the extent a response is required, denied.

23. Trilogy's motion to strike Paragraph 23 from Plaintiffs' Second Amended Complaint is filed in conjunction with this Answer and Affirmative Defenses and is pending with the Court. Nonetheless, to the extent a response is required, denied.

24. Denied.

25. Except to admit that Trilogy recommended the use of soda ash as a part of the City's corrosion-control treatment, denied.

26. Denied.

27. Denied.

28. Without sufficient knowledge or information, and therefore denied.

29. Without sufficient knowledge or information, and therefore denied.

30. Without sufficient knowledge or information, and therefore denied.

31. Denied.

32. Without sufficient knowledge or information, and therefore denied.

33. Without sufficient knowledge or information, and therefore denied.

34. Denied.

35. Denied.

36. Denied.

37. Denied.

38. Denied.

39. Denied.

40. Denied.

41. Denied.

42. Plaintiffs initiated this civil action, seeking monies. Otherwise, denied.

JURISDICTION

- 43. Plaintiffs initiated this civil action, invoking 42 U.S.C. § 1983. Otherwise, denied.
- 44. Denied.
- 45. Denied.
- 46. Without sufficient knowledge or information, and therefore denied.
- 47. Without sufficient knowledge or information, and therefore denied.
- 48. Without sufficient knowledge or information, and therefore denied.
- 49. Without sufficient knowledge or information, and therefore denied.
- 50. Without sufficient knowledge or information, and therefore denied.
- 51. Without sufficient knowledge or information, and therefore denied.
- 52. Without sufficient knowledge or information, and therefore denied.
- 53. Without sufficient knowledge or information, and therefore denied.
- 54. Trilogy maintains an office in Jackson, Mississippi, and is subject to the personal jurisdiction of the Southern District of Mississippi. Otherwise, denied.
- 55. Without sufficient knowledge or information, and therefore denied.
- 56. Trilogy does not contest venue, otherwise denied.

PARTIES

- 57. Without sufficient knowledge or information, and therefore denied.
- 58. Denied
- 59. Denied.
- 60. Except to admit that Jackson is a Mississippi municipality and the capital of Mississippi, without sufficient knowledge or information, and therefore denied.
- 61. Without sufficient knowledge or information, and therefore denied.

62. Without sufficient knowledge or information, and therefore denied.

63. Without sufficient knowledge or information, and therefore denied.

64. Without sufficient knowledge or information, and therefore denied.

65. Without sufficient knowledge or information, and therefore denied.

66. Without sufficient knowledge or information, and therefore denied.

67. Without sufficient knowledge or information, and therefore denied.

68. Without sufficient knowledge or information, and therefore denied.

69. Without sufficient knowledge or information, and therefore denied.

70. Without sufficient knowledge or information, and therefore denied.

71. Without sufficient knowledge or information, and therefore denied.

72. Without sufficient knowledge or information, and therefore denied.

73. Trilogy is a Texas LLC registered as a foreign LLC in Mississippi.

74. Admitted.

75. Trilogy has experience in design, managing, and overseeing construction of drinking water and wastewater (reuse water) projects, and provides drinking water design services, including water treatment plans operations, distribution waterline, and lead and copper corrosion control studies. Otherwise, denied.

STATEMENT OF FACTS

I. To the extent that a response is required, without sufficient knowledge or information, and therefore denied.

76. Without sufficient knowledge or information, and therefore denied.

77. Without sufficient knowledge or information, and therefore denied.

78. Without sufficient knowledge or information, and therefore denied.

79. Upon information and belief, the City of Jackson water distribution system consists of two treatments plans, the O.B. Curtis and the J.H. Fewell. Otherwise, without sufficient knowledge or information, and therefore denied.

80. Without sufficient knowledge or information, and therefore denied.

81. Without sufficient knowledge or information, and therefore denied.

82. Without sufficient knowledge or information, and therefore denied.

83. Without sufficient knowledge or information, and therefore denied.

84. Without sufficient knowledge or information, and therefore denied.

85. Without sufficient knowledge or information, and therefore denied.

86. Without sufficient knowledge or information, and therefore denied.

87. Without sufficient knowledge or information, and therefore denied.

88. Without sufficient knowledge or information, and therefore denied.

89. Without sufficient knowledge or information, and therefore denied.

90. Without sufficient knowledge or information, and therefore denied.

91. Without sufficient knowledge or information, and therefore denied.

92. Without sufficient knowledge or information, and therefore denied.

II. To the extent a response is required, denied.

93. Denied.

94. Denied.

95. Denied.

96. Denied.

97. Denied.

98. Without sufficient knowledge or information, and therefore denied.

99. Denied.

100. Denied.

III. To the extent a response is required, without sufficient knowledge or information, and therefore denied.

101. Without sufficient knowledge or information, and therefore denied.

102. Without sufficient knowledge or information, and therefore denied.

103. Without sufficient knowledge or information, and therefore denied.

104. Without sufficient knowledge or information, and therefore denied.

105. Without sufficient knowledge or information, and therefore denied.

106. Without sufficient knowledge or information, and therefore denied.

107. Without sufficient knowledge or information, and therefore denied.

108. Without sufficient knowledge or information, and therefore denied.

109. Without sufficient knowledge or information, and therefore denied.

110. Without sufficient knowledge or information, and therefore denied.

111. Without sufficient knowledge or information, and therefore denied.

112. Without sufficient knowledge or information, and therefore denied.

113. Lime may be used as a part of corrosion control. Otherwise, denied.

114. Without sufficient knowledge or information, and therefore denied.

115. Without sufficient knowledge or information, and therefore denied.

116. Without sufficient knowledge or information, and therefore denied.

117. Without sufficient knowledge or information, and therefore denied.

IV. To the extent a response is required, without sufficient knowledge or information, and therefore denied.

118. Without sufficient knowledge or information, and therefore denied.

119. Without sufficient knowledge or information, and therefore denied.

120. Without sufficient knowledge or information, and therefore denied.

121. Without sufficient knowledge or information, and therefore denied.

122. Without sufficient knowledge or information, and therefore denied.

123. Without sufficient knowledge or information, and therefore denied.

124. Without sufficient knowledge or information, and therefore denied.

V. To the extent a response is required, without sufficient knowledge or information, and therefore denied.

125. Without sufficient knowledge or information, and therefore denied.

126. Without sufficient knowledge or information, and therefore denied.

127. Without sufficient knowledge or information, and therefore denied.

128. Without sufficient knowledge or information, and therefore denied.

129. Without sufficient knowledge or information, and therefore denied.

130. Without sufficient knowledge or information, and therefore denied.

131. Without sufficient knowledge or information, and therefore denied.

132. Without sufficient knowledge or information, and therefore denied.

133. Without sufficient knowledge or information, and therefore denied.

134. Without sufficient knowledge or information, and therefore denied.

135. Without sufficient knowledge or information, and therefore denied.

136. Without sufficient knowledge or information, and therefore denied.

137. Without sufficient knowledge or information, and therefore denied.

138. Without sufficient knowledge or information, and therefore denied.

139. Without sufficient knowledge or information, and therefore denied.

140. Without sufficient knowledge or information, and therefore denied.

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157. Without sufficient knowledge or information, and therefore denied.
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159. Without sufficient knowledge or information, and therefore denied.
160. Without sufficient knowledge or information, and therefore denied.
161. Without sufficient knowledge or information, and therefore denied.
162. Without sufficient knowledge or information, and therefore denied.

VI. To the extent a response is required, without sufficient knowledge or information, and therefore denied.

- 163. Without sufficient knowledge or information, and therefore denied.
- 164. Without sufficient knowledge or information, and therefore denied.
- 165. Without sufficient knowledge or information, and therefore denied.
- 166. Without sufficient knowledge or information, and therefore denied.
- 167. Without sufficient knowledge or information, and therefore denied.
- 168. Without sufficient knowledge or information, and therefore denied.
- 169. Without sufficient knowledge or information, and therefore denied.
- 170. Without sufficient knowledge or information, and therefore denied.
- 171. Without sufficient knowledge or information, and therefore denied.
- 172. Without sufficient knowledge or information, and therefore denied.
- 173. Without sufficient knowledge or information, and therefore denied.
- 174. Without sufficient knowledge or information, and therefore denied.
- 175. Without sufficient knowledge or information, and therefore denied.
- 176. Without sufficient knowledge or information, and therefore denied.
- 177. Without sufficient knowledge or information, and therefore denied.
- 178. Without sufficient knowledge or information, and therefore denied.
- 179. Without sufficient knowledge or information, and therefore denied.
- 180. Without sufficient knowledge or information, and therefore denied.
- 181. Without sufficient knowledge or information, and therefore denied.
- 182. Without sufficient knowledge or information, and therefore denied.
- 183. Without sufficient knowledge or information, and therefore denied.
- 184. Without sufficient knowledge or information, and therefore denied.

185. Without sufficient knowledge or information, and therefore denied.

186. Without sufficient knowledge or information, and therefore denied.

187. Without sufficient knowledge or information, and therefore denied.

188. Without sufficient knowledge or information, and therefore denied.

189. Without sufficient knowledge or information, and therefore denied.

VII. To the extent a response is required, without sufficient knowledge or information, and therefore denied.

190. Upon information and belief, water testing was performed in June 2015. Otherwise, without sufficient knowledge or information, and therefore denied.

191. Without sufficient knowledge or information, and therefore denied.

192. Without sufficient knowledge or information, and therefore denied.

193. Without sufficient knowledge or information, and therefore denied.

194. Without sufficient knowledge or information, and therefore denied.

195. Without sufficient knowledge or information, and therefore denied.

196. Without sufficient knowledge or information, and therefore denied.

197. Without sufficient knowledge or information, and therefore denied.

198. Without sufficient knowledge or information, and therefore denied.

199. Without sufficient knowledge or information, and therefore denied.

200. Without sufficient knowledge or information, and therefore denied.

201. Without sufficient knowledge or information, and therefore denied.

202. Without sufficient knowledge or information, and therefore denied.

203. Without sufficient knowledge or information, and therefore denied.

204. Without sufficient knowledge or information, and therefore denied.

205. Without sufficient knowledge or information, and therefore denied.

- 206. Without sufficient knowledge or information, and therefore denied.
- 207. Without sufficient knowledge or information, and therefore denied.
- 208. Without sufficient knowledge or information, and therefore denied.
- 209. Without sufficient knowledge or information, and therefore denied.
- 210. Without sufficient knowledge or information, and therefore denied.
- 211. Without sufficient knowledge or information, and therefore denied.
- 212. Without sufficient knowledge or information, and therefore denied.
- 213. Without sufficient knowledge or information, and therefore denied.
- 214. Without sufficient knowledge or information, and therefore denied.
- 215. Without sufficient knowledge or information, and therefore denied.
- 216. Without sufficient knowledge or information, and therefore denied.
- 217. Without sufficient knowledge or information, and therefore denied.
- 218. Without sufficient knowledge or information, and therefore denied.
- 219. Without sufficient knowledge or information, and therefore denied.
- 220. Without sufficient knowledge or information, and therefore denied.

VIII. To the extent a response is required, without sufficient knowledge or information, and therefore denied.

- 221. Without sufficient knowledge or information, and therefore denied.
- 222. Without sufficient knowledge or information, and therefore denied.
- 223. Without sufficient knowledge or information, and therefore denied.
- 224. Without sufficient knowledge or information, and therefore denied.
- 225. Without sufficient knowledge or information, and therefore denied.
- 226. Without sufficient knowledge or information, and therefore denied.
- 227. Without sufficient knowledge or information, and therefore denied.

- 228. Without sufficient knowledge or information, and therefore denied.
- 229. Without sufficient knowledge or information, and therefore denied.
- 230. Without sufficient knowledge or information, and therefore denied.
- 231. Without sufficient knowledge or information, and therefore denied.
- 232. Without sufficient knowledge or information, and therefore denied.
- 233. Without sufficient knowledge or information, and therefore denied.
- 234. Without sufficient knowledge or information, and therefore denied.
- 235. Without sufficient knowledge or information, and therefore denied.
- 236. Without sufficient knowledge or information, and therefore denied.
- 237. Without sufficient knowledge or information, and therefore denied.
- 238. Without sufficient knowledge or information, and therefore denied.
- 239. Without sufficient knowledge or information, and therefore denied.
- 240. Without sufficient knowledge or information, and therefore denied.
- 241. Without sufficient knowledge or information, and therefore denied.
- 242. Without sufficient knowledge or information, and therefore denied.
- 243. Without sufficient knowledge or information, and therefore denied.

IX. To the extent a response is required, without sufficient knowledge or information, and therefore denied.

- 244. Without sufficient knowledge or information, and therefore denied.
- 245. Without sufficient knowledge or information, and therefore denied.
- 246. Without sufficient knowledge or information, and therefore denied.
- 247. Without sufficient knowledge or information, and therefore denied.
- 248. Without sufficient knowledge or information, and therefore denied.
- 249. Without sufficient knowledge or information, and therefore denied.

- 250. Without sufficient knowledge or information, and therefore denied.
- 251. Without sufficient knowledge or information, and therefore denied.
- 252. Without sufficient knowledge or information, and therefore denied.
- 253. Without sufficient knowledge or information, and therefore denied.
- 254. Without sufficient knowledge or information, and therefore denied.
- 255. Without sufficient knowledge or information, and therefore denied.
- 256. Without sufficient knowledge or information, and therefore denied.
- 257. Without sufficient knowledge or information, and therefore denied.
- 258. Without sufficient knowledge or information, and therefore denied.
- 259. Without sufficient knowledge or information, and therefore denied.
- 260. Without sufficient knowledge or information, and therefore denied.
- 261. Without sufficient knowledge or information, and therefore denied.
- 262. Without sufficient knowledge or information, and therefore denied.
- 263. Without sufficient knowledge or information, and therefore denied.
- 264. Without sufficient knowledge or information, and therefore denied.
- 265. Without sufficient knowledge or information, and therefore denied.
- 266. Without sufficient knowledge or information, and therefore denied.
- 267. Without sufficient knowledge or information, and therefore denied.
- 268. Without sufficient knowledge or information, and therefore denied.

X. To the extent a response is required, without sufficient knowledge or information, and therefore denied.

- 269. Without sufficient knowledge or information, and therefore denied.
- 270. Without sufficient knowledge or information, and therefore denied.
- 271. Without sufficient knowledge or information, and therefore denied.

- 272. Without sufficient knowledge or information, and therefore denied.
- 273. Without sufficient knowledge or information, and therefore denied.
- 274. Without sufficient knowledge or information, and therefore denied.
- 275. Without sufficient knowledge or information, and therefore denied.
- 276. Without sufficient knowledge or information, and therefore denied.
- 277. Without sufficient knowledge or information, and therefore denied.
- 278. Without sufficient knowledge or information, and therefore denied.
- 279. Without sufficient knowledge or information, and therefore denied.
- 280. Without sufficient knowledge or information, and therefore denied.
- 281. Without sufficient knowledge or information, and therefore denied.
- 282. Without sufficient knowledge or information, and therefore denied.
- 283. Without sufficient knowledge or information, and therefore denied.

XI. To the extent a response is required, without sufficient knowledge or information, and therefore denied.

- 284. Without sufficient knowledge or information, and therefore denied.
- 285. Without sufficient knowledge or information, and therefore denied.
- 286. Without sufficient knowledge or information, and therefore denied.
- 287. Without sufficient knowledge or information, and therefore denied.
- 288. Without sufficient knowledge or information, and therefore denied.

XII. To the extent a response is required, without sufficient knowledge or information, and therefore denied.

- 289. Without sufficient knowledge or information, and therefore denied.
- 290. Without sufficient knowledge or information, and therefore denied.
- 291. Without sufficient knowledge or information, and therefore denied.

XIII. To the extent a response is required, without sufficient knowledge or information, and therefore denied.

292. Without sufficient knowledge or information, and therefore denied.

293. Without sufficient knowledge or information, and therefore denied.

294. Without sufficient knowledge or information, and therefore denied.

295. Without sufficient knowledge or information, and therefore denied.

XIV. Admit to the extent that Trilogy was retained by the City of Jackson, otherwise denied.

296. Without sufficient knowledge or information, and therefore denied.

297. Without sufficient knowledge or information, and therefore denied.

298. Admitted that Trilogy was retained by the City of Jackson to conduct a corrosion control study. Otherwise, denied.

299. Denied as phrased.

300. Admitted.

301. Trilogy's motion to strike Paragraph 301 from Plaintiffs' Second Amended Complaint is filed in conjunction with this Answer and Affirmative Defenses and is pending with the Court. Nonetheless, to the extent a response is required, denied.

302. Trilogy was retained to conduct, among other things, a corrosion control study. Otherwise, denied.

303. Denied as phrased.

304. Without sufficient knowledge or information, and therefore denied.

305. Without sufficient knowledge or information, and therefore denied.

306. Denied.

307. Denied.

308. Denied as phrased.

309. The use of soda ash was one of Trilogy's recommendations to the City of Jackson.

Otherwise, denied.

310. Denied as phrased.

311. Denied.

312. Without sufficient knowledge or information, and therefore denied.

313. Without sufficient knowledge or information, and therefore denied.

314. Denied.

315. Denied.

316. Denied.

317. Denied.

318. Denied.

319. Denied.

320. Denied.

321. Denied as phrased.

322. Denied.

323. Without sufficient knowledge or information, and therefore denied.

XV. To the extent a response is required, without sufficient knowledge or information, and therefore denied.

324. Without sufficient knowledge or information, and therefore denied.

325. Without sufficient knowledge or information, and therefore denied.

326. Without sufficient knowledge or information, and therefore denied.

327. Without sufficient knowledge or information, and therefore denied.

328. Without sufficient knowledge or information, and therefore denied.

329. Without sufficient knowledge or information, and therefore denied.

330. Without sufficient knowledge or information, and therefore denied.

331. Without sufficient knowledge or information, and therefore denied.

332. Without sufficient knowledge or information, and therefore denied.

333. Without sufficient knowledge or information, and therefore denied.

XVI. To the extent a response is required, without sufficient knowledge or information, and therefore denied.

334. Denied.

335. Without sufficient knowledge or information, and therefore denied.

336. Without sufficient knowledge or information, and therefore denied.

337. Without sufficient knowledge or information, and therefore denied.

338. Without sufficient knowledge or information, and therefore denied.

339. Without sufficient knowledge or information, and therefore denied.

340. Without sufficient knowledge or information, and therefore denied.

341. Without sufficient knowledge or information, and therefore denied.

342. Without sufficient knowledge or information, and therefore denied.

343. Without sufficient knowledge or information, and therefore denied.

344. Without sufficient knowledge or information, and therefore denied.

345. Without sufficient knowledge or information, and therefore denied.

XVII. To the extent a response is required, denied.

346. Denied.

347. Denied as to the first sentence. Otherwise, without sufficient knowledge or information, and therefore denied.

348. Without sufficient knowledge or information, and therefore denied.

349. Without sufficient knowledge or information, and therefore denied.

350. Without sufficient knowledge or information, and therefore denied.

351. Without sufficient knowledge or information, and therefore denied.

352. Without sufficient knowledge or information, and therefore denied.

353. Without sufficient knowledge or information, and therefore denied.

354. Without sufficient knowledge or information, and therefore denied.

355. Denied.

356. Denied.

XVIII. To the extent a response is required, denied.

357. Denied.

358. Without sufficient knowledge or information, and therefore denied.

359. Denied.

360. Without sufficient knowledge or information, and therefore denied.

361. Denied.

XIX. To the extent a response is required, without sufficient knowledge or information, and therefore denied.

362. Without sufficient knowledge or information, and therefore denied.

363. Without sufficient knowledge or information, and therefore denied.

364. Without sufficient knowledge or information, and therefore denied.

365. Without sufficient knowledge or information, and therefore denied.

366. Without sufficient knowledge or information, and therefore denied.

367. Without sufficient knowledge or information, and therefore denied.

368. Denied.

369. Without sufficient knowledge or information, and therefore denied.

370. Without sufficient knowledge or information, and therefore denied.

371. Without sufficient knowledge or information, and therefore denied.

372. Without sufficient knowledge or information, and therefore denied.

373. Denied.

374. Denied.

CLAIMS FOR RELIEF

COUNT I

375. Trilogy reasserts its responses to Paragraphs 1-374 as if fully set forth herein.

376-382. Count I of the Plaintiff's Amended Complaint does not relate to Trilogy, and therefore no response is provided. However, to the extent that any allegations in Count I may require a response from Trilogy, those allegations are specifically denied.

COUNT II

383. Trilogy reasserts its responses to Paragraphs 1-374 as if fully set forth herein.

384-393. Count II of the Plaintiff's Amended Complaint does not relate to Trilogy, and therefore no response is provided. However, to the extent that any allegations in Count I may require a response from Trilogy, those allegations are specifically denied.

COUNT III

394. Trilogy reasserts its responses to Paragraphs 1-374 as if fully set forth herein.

395-412. Count III of the Plaintiff's Amended Complaint does not relate to Trilogy, and therefore no response is provided. However, to the extent that any allegations in Count I may require a response from Trilogy, those allegations are specifically denied.

COUNT IV

413. Trilogy reasserts its responses to Paragraphs 1-374 as if fully set forth herein.

414. Admitted that Trilogy was retained by the City of Jackson. Otherwise, denied.

415. Denied.

416. Denied.

417. Denied.

418. Denied.

419. Denied.

420. Denied.

421. Denied.

422. Denied.

423. Denied.

424. Denied.

425. Denied.

COUNT V

426. Trilogy reasserts its responses to Paragraphs 1-374 as if fully set forth herein.

427. Admitted that Trilogy was retained by the City of Jackson. Otherwise, denied.

428. Denied.

429. Denied.

430. Denied.

431. Denied.

432. Denied.

433. Denied.

434. Denied.

435. Denied.

436. Denied.

437. Denied.

DEMAND FOR JURY TRIAL

438. Trilogy demands trial by jury in this action of all issues so triable.

RELIEF REQUESTED

439. Denied, *in toto*, specifically denying Plaintiff is entitled to any relief from Trilogy.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

As its First Affirmative Defense, Trilogy states that Plaintiff fails to state a claim against Trilogy upon which relief can be granted, and their claims should be dismissed under Federal Rule of Civil Procedure 12(b)(6).

SECOND AFFIRMATIVE DEFENSE

As its Second Affirmative Defense, Trilogy states that the Court lacks subject matter jurisdiction. Standing is an element of subject matter jurisdiction. Standing analysis proceeds plaintiff-by-plaintiff and claim by claim. *See, e.g., In re Gee*, 941 F.3d 153, 171 (5th Cir. 2019). Plaintiff cannot show that each has suffered a concrete injury that is fairly traceable to Trilogy's actions. Plaintiff fails to particularize where they lived in Jackson, MS, when, and for how long. These facts are necessary to establish standing.

THIRD AFFIRMATIVE DEFENSE

As its Third Affirmative Defense, Trilogy states that Plaintiff brings suit as "guardian and next friend," but may lack capacity to do so under Federal Rules of Civil Procedure 17(b) and (c). Under Mississippi law, "[a] person becomes a guardian for a minor only on appointment by the Court." Miss. Code § 93-20-201(1). Plaintiff has not established that they have been court-

appointed as guardian. Under Rule 17(c), Plaintiffs may sue as “next friends” if the Court, in its discretion, determines that Plaintiffs will adequately protect the minors’ interests.

FOURTH AFFIRMATIVE DEFENSE

As its Fourth Affirmative Defense, Trilogy states that at all times material to the allegations set forth in Plaintiff’s Amended Complaint, Trilogy exercised ordinary professional skill and diligence in providing its services.

FIFTH AFFIRMATIVE DEFENSE

As its Fifth Affirmative Defense, Trilogy states that it did not owe any duty to Plaintiff.

SIXTH AFFIRMATIVE DEFENSE

As its Sixth Affirmative Defense, Trilogy states that it is not responsible for Plaintiff’s damages, if any, to the extent they were caused, in whole or in part, by other entities or persons not affiliated with Trilogy. Trilogy is entitled to an apportionment of fault for parties and/or non-parties who contributed, including but not limited to:

1. Cornerstone Engineering LLC;
2. Sodimate, Inc.;
3. RDP Technologies, Inc.

Trilogy reserves the right to amend its Affirmative Defenses to identify additional non-parties whose acts or omissions proximately caused Plaintiff’s damages, as discovery is ongoing which may reveal new information.

SEVENTH AFFIRMATIVE DEFENSE

As its Seventh Affirmative Defense, Trilogy states that Plaintiff’s alleged injuries and damages, if any, were caused by the intervening acts of third parties severing the chain of causation between the actions and/or inactions complained of by the Plaintiff and the alleged injuries.

Trilogy states that any alleged conduct or omission by Trilogy was not the cause in fact or the legal cause of the alleged damages suffered by the Plaintiff.

EIGHTH AFFIRMATIVE DEFENSE

As its Eighth Affirmative Defense, Trilogy states that the actions and/or omissions of any party(ies) to this action were the contributing and/or proximate cause of the damages alleged by the Plaintiff, and thus Plaintiff is barred from recovery from Trilogy, or ultimately, any damages complained of must be reduced in accordance with the doctrine of comparative negligence.

NINTH AFFIRMATIVE DEFENSE

As its Ninth Affirmative Defense, Trilogy states that Trilogy is not vicariously liable to Plaintiff for errors and omissions resulting from the performance of products, work performed by trades on the Project, and/or services provided by other professional consultants licensed in the State of Mississippi who provided services on the Project outside of those included in Trilogy's Agreement.

TENTH AFFIRMATIVE DEFENSE

As its Tenth Affirmative Defense, Trilogy states that any and all alleged defects and deficiencies alleged in the Amended Complaint were caused by improper means, methods, techniques, sequences, procedures, and the overall performance of other entities who performed work on the Project.

ELEVENTH AFFIRMATIVE DEFENSE

As its Eleventh Affirmative Defense, Trilogy states that at all times it complied with all applicable federal, state, and local rules, laws, regulations, and specifications.

TWELFTH AFFIRMATIVE DEFENSE

As its Twelfth Affirmative Defense, Trilogy states that Plaintiff's claims against Trilogy are barred, in whole or in part, by the learned or sophisticated intermediary doctrine.

THIRTEENTH AFFIRMATIVE DEFENSE

As its Thirteenth Affirmative Defense, Trilogy states that Plaintiff's claims against Trilogy fail because Trilogy had no duty to guard against criminal conduct of others that contributed to cause the Plaintiffs' alleged injuries and damages.

FOURTEENTH AFFIRMATIVE DEFENSE

As its Fourteenth Affirmative Defense, Trilogy states that Plaintiff may live in homes with lead paint and/or lead blinds or may have been exposed to lead through sources other than the City of Jackson's public water supply, which may be a superseding or intervening cause of any injuries claimed by the Plaintiff.

FIFTEENTH AFFIRMATIVE DEFENSE

As its Fifteenth Affirmative Defense, Trilogy states that to the extent that the minor Plaintiff had a court-appointed guardian before October 19, 2021, the statute of limitations ceased to toll under Mississippi Code § 15-1-53, and the Plaintiff's claims are time-barred.

SIXTEENTH AFFIRMATIVE DEFENSE

As its Sixteenth Affirmative Defense, Trilogy states that it is entitled to a setoff and/or credit of any benefits received by Plaintiff from whatever source, including any and all collateral sources, which relates in any way to the claims asserted in this action.

SEVENTEENTH AFFIRMATIVE DEFENSE

As its Seventeenth Affirmative Defense, Trilogy states that Plaintiff failed to mitigate their damages, if any.

EIGHTEENTH AFFIRMATIVE DEFENSE

As its Eighteenth Affirmative Defense, Trilogy states that Plaintiff's alleged injuries and/or damages, if any, may have resulted solely and/or proximately from underlying and/or pre-existing health conditions and/or other conditions or circumstances for which Trilogy is not responsible and for which it has and can have no liability.

NINETEENTH AFFIRMATIVE DEFENSE

As its Nineteenth Affirmative Defense, Trilogy states that Plaintiff has failed to exercise due care for their own safety and that such failure caused or contributed to the injuries and/or damages alleged herein, and Trilogy hereby invokes the doctrine of contributory negligence and the provisions and protections of Miss. Code Ann. § 11-7-15 in bar of Plaintiff's claims.

TWENTIETH AFFIRMATIVE DEFENSE

As its Twentieth Affirmative Defense, Trilogy invokes all rights and protections afforded to it under the Mississippi Tort Reform Act of 2004.

TWENTY-FIRST AFFIRMATIVE DEFENSE

As its Twenty-First Affirmative Defense, Trilogy invokes all rights and protections afforded to it under Miss. Code Ann. § 85-5-7.

TWENTY-SECOND AFFIRMATIVE DEFENSE

As its Twenty-Second Affirmative defense, Trilogy states that Plaintiff's claims for punitive damages are governed and limited by Miss. Code Ann. § 11-1-65, and Trilogy hereby

pleads and invokes the provisions of same, including but not limited to the bifurcation of punitive damages from other issues in this case.

TWENTY-THIRD AFFIRMATIVE DEFENSE

As its Twenty-Third Affirmative Defense, and while denying that Plaintiff is entitled to punitive damages, exemplary damages, or extra-contractual damages whatsoever, Trilogy affirmatively states as follows:

1. An award of punitive damages in this civil action would amount to a deprivation of property without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitution and Section 14 of the Mississippi Constitution.
2. No legislation has been enacted authorizing punitive damages in a civil action such as this or placing any limit on the amount of punitive damages awardable and/or in the alternative, the provisions and procedures of Mississippi Code Annotated Section 11-1-65 are hereby invoked, including but not limited to bifurcation.
3. the criteria used for determining whether and in what amount punitive damages may be awarded are impermissibly vague, imprecise, and inconsistent, and are, therefore, in violation of the due process provision of the Fifth and Fourteenth Amendments of the United States Constitution.
4. An award of punitive damages in this civil action would amount to an excessive fine in violation of the Eight Amendment of the Constitution of the United States of America and Section 28 of the Mississippi Constitution.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

As its Twenty-Fourth Affirmative Defense, Trilogy states that there is no basis in law or in fact for Plaintiff to recover any attorneys' fees or expenses of litigation from Trilogy. Trilogy expressly invokes the American Rule against fee shifting.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

As its Twenty-Fifth Affirmative Defense, Trilogy relies upon the rights, obligations and defenses as set forth in the agreement between Trilogy and the City of Jackson.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

As its Twenty-Sixth Affirmative Defense, Trilogy states that Plaintiff's claims are barred by the doctrines of waiver, laches, estoppel, and/or unclean hands.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

As its Twenty-Seventh Affirmative Defense, Trilogy states that Plaintiff's claims are barred because Plaintiff's alleged damages, if any, are indirect, too speculative, too remote, cannot be reasonably ascertained, and/or because of the impossibility of the proof and allocation of these alleged damages.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

As its Twenty-Eighth Affirmative Defense, Trilogy invokes the protections of and rights afforded to it by Rule 8(c) of the Federal Rule of Civil Procedure and Rule 8(c) of the Mississippi Rules of Civil Procedure.

TWENTY-NINTH AFFIRMATIVE DEFENSE

As its Twenty-Ninth Affirmative Defense, Trilogy incorporates the affirmative defenses asserted by other parties.

RESERVATION

Trilogy hereby reserves the right to amend this pleading to assert additional Affirmative Defenses that may become apparent as the result of discovery, investigation, or otherwise.

[Certificate of Service on the following page]

CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed the foregoing with the Clerk of Court via the ECF System, which served copies upon all counsel and parties of record.

Dated: April 11, 2022.

Respectfully submitted,

By: /s/ Davide Macelloni
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